IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No. 15780 of 2005

Date of decision : 18th September, 2006

Kartar Singh .....*Petitioner*

Versus

The Financial Commissioner, Appeals-II, Punjab etc. ..... *Respondents*

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Mr. Ashwani Chopra, Sr. Advocate with
Mr. Harminder Singh, Advocate
for the petitioner

Mr. C.M. Munjal, Sr. Addl. A.G. Pb.
for the State

Mr. K.G. Chaudhary, Advocate
for respondent No. 4.

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NIRMAL YADAV, J.

Vide this petition, the petitioner seeks quashing of the impugned order dated 19.07.2005,Annexure P-3, passed by the Financial Commissioner Appeals-II, Punjab and upholding the orders dated 24.09.2001, Annexure P-1, passed by the District Collector, Hoshiarpur and dated 29.01.2003, Annexure P2, passed by the Commissioner (Appeals), Jalandhar Division, Jalandhar.

The facts, in briefs, are that after the death of Veer Singh, Lambardar of Village Thakri, Tehsil Dasuya, District Hoshiarpur,

applications were invited from the eligible persons for appointment as Lambardar. The petitioner, respondent No.4-Didar Singh and two others had applied for the post. The other two persons withdrew their candidatures, therefore, the petitioner and respondent No.4 remained in the fray. The Collector, after considering the merits of both the candidates, appointed the petitioner as Lambardar. Respondent No.4 challenged the order of the Collector before the Commissioner, who rejected the respondent's appeal. Thereafter, he filed revision before the Financial Commissioner, who set aside the order of the Collector as well as the Commissioner and appointed respondent No.4 as Lambardar of the Village.

Being aggrieved by the order of Financial Commissioner, Annexure P-3, the petitioner has filed the present writ petition.

Learned counsel for the petitioner argued that petitioner possesses better and meritorious claim than respondent No.4. Comparative merits of both the candidates would show that the petitioner has an edge over respondent No.4. The petitioner is younger in age. He is better qualified and possesses more land in the Village. He is residing in the Village and is easily available to the inhabitants all the time in the Village. Whereas respondent No.4 is an old man of 61 years. He originally belongs to Ward No. 12, Tanda. It is further argued that the choice of the District Collector is neither perverse nor contrary to the rules, therefore, the Collector's choice could not be interfered with. In support of his arguments, learned counsel for the petitioner has referred to a judgment of this Court in a case ***Jog Dhian*** *Vs.* ***Financial Commissioner, Haryana and Ors. - 2005(2) PLR***-306.

On the other hand, learned counsel for respondent No.4 argued

that respondent No.4 is matriculate. He owns about 25 kanals land in the Village. He is the son of the previous Lambardar, therefore, he worked as ***sarbrah*** Lambardar. He is also an ex-serviceman having retired as JCO after putting in 32 years of service.

We have considered the matter and examined the orders of the authorities below. After going through the orders of the Collector as well as the Commissioner, we are of the considered opinion that the petitioner is a better choice for appointment as Lambardar. He is better qualified and owns more land in the Village. Respondent No.4 could not refute the allegations that he owns a residential house at Tanda where his late father breathed his last. According to the District Collector, Kartar Singh-petitioner is comparatively better than respondent No.4. He is younger in age and is well acquainted with the functions of Lambardar. The findings of the District Collector are neither perverse nor contrary to the provisions of law.

It is well established that for appointment of Lambardar, the choice of the Collector is final and it should not be interfered with, in normal course. Learned Financial Commissioner has not taken into consideration the comparative merits of both the candidates. He simply considered the fact that the name of Didar Singh-respondent No.4 is mentioned in the voter list and he has a ration card of Village Thakri. Whereas the Collector as well as the Commissioner have considered the comparative merits of both the candidates. Respondent No. 4 could not produce any evidence before the Collector to prove that he is not a resident of Tanda and is a resident of Thakri.

In view of above, we set aside the order, Annexure P-3, passed by

the Financial Commissioner and uphold the orders, Annexure P-1 and P2, passed by the District Collector as well as Commissioner. The petitioner deserves to be appointed as Lambardar of the Village Thakri, Tehsil Dasuya, District Hoshiarpur.

We order accordingly.

(NIRMAL YADAV)
JUDGE

(ASHUTOSH MOHUNTA)
JUDGE

September 18 , 2006
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Reserved Judgment of VIIIth D.B.